

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 17 1992

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Saranac Lake, New York))

RM-_____

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Federal Communications Commission
Office of the Secretary

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RULE MAKING

1. WNBZ, Inc. ("WNBZ") hereby petitions for rule making to delete the FM Channel 269A allotment at Saranac Lake, New York, contingent upon the granting of a license for Station WDGE(FM) to operate on Channel 292C3. The proposed change is as follows:

	<u>Present</u>	<u>Proposed</u>
Saranac Lake, NY	269A, 292C3	292C3

2. WNBZ is the licensee of WDGE. WDGE operates on Channel 269A. In MM Docket No. 90-324,^{1/} the Commission allotted Channel 292C3 to Saranac Lake as a second allotment.^{2/} No one filed an application for the new allotment during the filing window, which closed November 16, 1991. On November 27, 1991, WNBZ filed an application for major changes, asking that WDGE be authorized to operate as a Class C3 station on Channel 292C3.

^{1/} FM Table of Allotments (Saranac Lake, NY), 6 FCC Rcd. 5121 (MM Bur. 1991).

^{2/} WNBZ opposed the allotment and filed a petition for reconsideration of the allotment. WNBZ is today filing a request to hold its petition for reconsideration in abeyance, subject to dismissal when and if WDGE is authorized to operate on Channel 292C3.

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WNBZ filed an application for major changes, asking that WDGE be authorized to operate as a Class C3 station on Channel 292C3. The WDGE application is eligible for processing under the "first come/first serve" provision of Section 73.3573(g)(e) of the Commission's Rules, since it was the first application filed after the close of the window.

3. Once WDGE moves to Channel 292C3, Channel 269A will become vacant. The instant petition for rule making requests that Channel 269A be deleted when WDGE's move has been completed and WDGE is licensed to operate on its new channel.

4. Channel 269A should be deleted from Saranac Lake for two reasons. First, there is no interest by any party in constructing a second station in Saranac Lake. No comments were filed in MM Docket No. 90-324 in favor of the allotment of Channel 292C3 except by the petitioner for rule making; and no one, including the petitioner for rule making itself, filed an application for a construction permit during the filing window. Since there is no interest by any party in Channel 269A -- except of course by WNBZ if WDGE is denied authority to change channels -- there is no reason to leave the channel in place once WDGE has abandoned it.

5. A second reason to delete Channel 269A is that it is a sub-standard channel that does not meet the mileage separation requirements of Section 73.207(b) of the Rules. WDGE has been limited to the equivalent of 3 kW/100 meters -- the pre-1989 limits for Class A stations -- because it is short-spaced to two co-channel stations: WENU, Glens Falls, New York, and WVMX,

Stowe, Vermont. WDGE sought the consent of both of these stations to mutual upgrades to 6 kW but was unable to get their consent because they have other short-spacing problems they are unable to resolve.^{3/} Therefore, WDGE is locked in as a 3 kW/100 meter equivalent station.

6. While the Commission has grandfathered pre-1989 stations and has allowed continued operation of those stations limited to 3 kW/100 meters, the reason for grandfathering was to protect the expectations of existing stations and parties who had initiated rule making proceedings or filed applications before the rules in MM Docket No. 88-375 (allowing Class A stations to increase ERP to 6 kW) were adopted. There is no one other than WNBZ whose expectations are entitled to protection in Saranac Lake. Any new party who comes forward in the future was not involved with the channel in 1989 and so should not have any expectation of being able to operate under anything other than the current mileage separation requirements for Class A stations, which requirements the Commission found to be in the public interest when it adopted them. It is impossible to comply with current separations on Channel 269A at Saranac Lake. That makes Channel 269A a sub-standard allotment that is contrary to the public interest and

^{3/} A spacing study is attached hereto as Exhibit 1. It shows that Channel 269A at Saranac Lake also has spacing problems with Canadian allotments at Cornwall, Ontario, and Buckingham, Quebec, that prevent the Commission from notifying the Channel to Canada as Class B1 so as to allow 6 kW operation.

that should be deleted because there are no pre-1989 expectations to protect.

7. In light of the foregoing, WNBZ respectfully requests that Channel 269A be deleted from Saranac Lake, contingent upon, and effective upon, the licensing of WDGE to operate on Channel 292C3.

Respectfully submitted,


Peter Tannenwald

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March 17, 1992

Counsel for WNBZ, Inc.

DGR COMMUNICATIONS INC.
ROCKVILLE, MARYLAND 20852

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FM Spacing study

Title: Saranac Lake - WDGE Latitude: 44-20-28
Channel 269A (101.7 MHz) Longitude: 74-07-43
Database: DW 12/30/91 Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
WSLO	LIC	THE SAINT LAWRENCE UNIV	*215A	.20	44-49-46	340.3	57.69	10
MALONE		NY BLED-890320KD	90.9	106	74-22-31	160.1	47.69	CLEAR

Call Granted 01/24/89

WTSC-FM CP	CLARKSON UNIVERSITY	*216A	.70	44-39-41	297.6	77.75	10	
POTSDAM		NY BPED-890807IB	91.1	34	74-59-52	117.0	67.75	CLEAR

Network: ABC; CP Granted 02/15/90 per FCC release #20800 dated 03/01/90

WLKO	LIC	WILLIAM H WALKER JR	266A	1.25	42-52-44	198.2	170.9	31
FORT PLAIN		NY BLH-910312KD	101.1	219	74-47-07	17.8	139.9	CLEAR

Call Granted 03/23/89;
License Granted 12/02/91 per FCC release #21268 dated 12/06/91;
Ant: Shiveley 6813

NEW	APP	PAUL S GOLDMAN	267A	1.27	44-21-06	88.5	54.99	31
ESSEX		NY BPH-891012NF	101.3	219	73-26-21	269.0	23.99	CLEAR

PET FOR RECON FILED 7/16/91; Accepted per FCC release #NA-123 dated 05/04/90;
Application returned 06/18/91 per FCC release #21144 dated 06/24/91

NEW	APP	R J WINTER INCORPORATED	267A	1	44-24-13	82.6	55.78	31
ESSEX		NY BPH-891012NB	101.3	242	73-26-03	263.1	24.78	CLEAR

APP FOR REVIEW FILED 4/22/91; Amended 01/29/90;
Accepted per FCC release #NA-123 dated 05/04/90

NEW	APP	SMK ENTERPRISES LIMITED	267A	.99	44-24-12	82.6	55.80	31
ESSEX		NY BPH-891012MY	101.3	240	73-26-02	263.1	24.80	CLEAR

Amended 10/31/91; Accepted per FCC release #NA-123 dated 05/04/90

WXQZ	CP	DAVID T & ANN BUTTON	268A	2.40	44-32-01	285.9	80.03	72
CANTON		NY BPH-880810MP	101.5	111	75-05-50	105.2	8.031	CLOSE

CP Granted 04/09/91 per FCC release #21096 dated 04/17/91;
Call Granted 05/31/91 per FCC release #159 dated 05/31/91

ALLOC			268A		45-18-00	32.2	126.5	113
SAINT JEAN	QU		101.5		73-16-00	212.8	13.50	CLOSE

NEW	APP		268A	.33	45-21-24	34.0	136.8	113
SAINT JEAN	QU		101.5	232	73-08-59	214.7	23.84	CLEAR

WDGE	LIC	WNBZ INCORPORATED	269A	2.20	44-20-28	.0		115
SARANAC LAKE		NY BLH-890621KA	101.7	118	74-07-43	.0	-115	SHORT

CHANGE TO 292C3;
License Granted 05/02/90 per FCC release #20852 dated 05/08/90

WVMX	LIC	SAGE BCG CORP OF BURLING	269A	.04	44-31-32	78.4	106.6	115
STOWE		VT BLH-901214KB	101.7	809	72-48-54	259.3	-8.42	SHORT

Was WRFB 11/09/90 per FCC release #146 dated 11/02/90;
License Granted 11/15/91 per FCC release #21257 dated 11/22/91;
Ant: Elec. Res. Inc. LP-1E

DGR COMMUNICATIONS INC.
ROCKVILLE, MARYLAND 20852

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FM Spacing study

Title: Saranac Lake - WDGE
Channel 269A (101.7 MHz)

Latitude: 44-20-28
Longitude: 74-07-43

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
WENU	LIC	BRADMARK BROADCASTING CO	269A	3	43-22-40	160.7	113.3	115
HUDSON FALLS		NY BLH-870116KC	101.7	55	73-39-56	341.0	-1.68	SHORT

Network: CBS AP

WENU	CP	BRADMARK BROADCASTING CO	269A	4.60	43-22-40	160.7	113.3	115
HUDSON FALLS		NY BPH-900123IC	101.7	55	73-39-56	341.0	-1.68	SHORT

CP Granted 11/13/90 per FCC release #20993 dated 11/21/90

ALLOC			269A		45-35-00	324.2	171.4	180
BUCKINGHAM		QU	101.7		75-25-00	143.3	-8.58	SHORT

NEW	APP		269A	3	46-02-33	22.4	205.1	180
SOREL		QU	101.7	68	73-07-02	203.1	25.11	CLEAR

ALLOC			269A		46-03-00	22.3	205.9	180
SOREL		QU	101.7		73-07-00	203.0	25.89	CLEAR

ALLOC		SPECIAL REFERENCE POINT	270A		45-02-26	326.1	93.98	113
CORNWALL		ON	101.9		74-47-42	145.7	-19.0	SHORT

NEW	APP	BRUCE M LYONS	270A	3	43-50-17	123.5	100.6	72
BRANDON		VT BPH-890413MD	101.9	100	73-05-02	304.2	28.62	CLEAR

Deletion proposed; MUST BE AMENDED TO 268A;
Accepted per FCC release #NA-120 dated 03/30/90

CHAI-FM LIC			270D	.05	45-21-23	15.9	117.4	
CHATEAUGUAY		QU	101.9	50	73-42-59	196.2		

ALLOC		LTD TO 1. KW + 300 FT	270A		45-08-00	48.8	135.2	113
DUNHAM		QU	101.9		72-50-00	229.7	22.19	CLEAR

CBOF7F	LIC	CANADIAN BROADCASTING CO	271A	2.50	44-38-25	286.2	123.1	62
BROCKVILLE		ON	102.1	101	75-37-08	105.2	61.12	CLEAR

WRGR	LIC	RGR BCG OF TUPPER LAKE I	272A	.15	44-09-35	234.0	34.30	31
TUPPER LAKE		NY BLH-880223KI	102.3	441	74-28-34	53.8	3.301	CLOSE

Network: SMN; Was WTPL-FM 08/31/87

>> End of channel 269A study <<

FM Spacing study

Title: Saranac Lake - WDGE
Channel 269A (101.7 MHz)
Database: FCC 11/26/91

Latitude: 44-20-28
Longitude: 74-07-43
Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
WSLO	LIC	The St. Lawrence Univers	*215A	.20	44-49-46	340.3	57.69	10
Malone	NY		90.9	106	74-22-31	160.1	47.69	CLEAR
WTSC-FM CP	Clarkson University	*216A	.70	44-39-41	297.6	77.75	10	
Potsdam	NY		91.1	34	74-59-52	117.0	67.75	CLEAR
ALLOC		266A		42-56-12	194.4	161.0	31	
Fort Plain	NY	DOC-84-231	101.1		74-37-10	14.0	130.0	CLEAR
Filing window 11/15-12/16/85 **CLOSED**								
NEW	APC	WSMK Enterprises, L.P.	267A	.49	44-22-30	85.5	51.25	31
Essex	NY	BPH-891012MY	101.3	245	73-29-15	266.0	20.25	CLEAR
Cut-off 06/07/90								
NEW	APC	Paul S. Goldman	267A	1.25	44-21-06	88.5	54.99	31
Essex	NY	BPH-891012NF	101.3	219	73-26-21	269.0	23.99	CLEAR
Cut-off 06/07/90								
NEW	APC	R.J. Winter Inc.	267A	1	44-24-13	82.6	55.78	31
Essex	NY	BPH-891012NB	101.3	242	73-26-03	263.1	24.78	CLEAR
Cut-off 06/07/90								
NEW	APC	Roy D. Edmonds	267A	3	44-18-16	93.8	57.20	31
Essex	NY	BPH-891012MP	101.3	100	73-24-48	274.3	26.20	CLEAR
Cut-off 06/07/90								
ALLOC		267A		44-19-30	91.5	59.36	31	
Essex	NY	DOC-88-543	101.3		73-23-05	272.0	28.36	CLEAR
Filing window 09/12-10/12/89 **CLOSED**								
WXQZ	CP	David T. & Ann D. G. But	268A	2.40	44-32-01	285.9	80.03	72
Canton	NY	BPH-880810MP	101.5	111	75-05-50	105.2	8.031	CLOSE
DOC-90-355								
ALLOC		268A		44-33-35	287.9	80.92	72	
Canton	NY	DOC-87-510	101.5		75-05-54	107.2	8.923	CLOSE
Filing window 07/11-08/10/88 **CLOSED**								
NEW		268A	.33	45-21-24	34.0	136.8	113	
St. Jean	QU		101.5	232	73-08-59	214.7	23.84	CLEAR
ALLOC		268A		45-33-30	18.2	142.6	113	
Montreal	QU		101.5		73-33-20	198.6	29.63	CLEAR
ALLOC		269A		44-20-28	.0		115	
Saranac Lake	NY		101.7		74-07-43	.0	-115	SHORT

FM Spacing study

Title: Saranac Lake - WDGE
Channel 269A (101.7 MHz)

Latitude: 44-20-28
Longitude: 74-07-43

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
WDGE	LIC	WNBZ, Inc.	269A	2.20	44-20-28	.0		115
Saranac Lake	NY	BLH-890621KA	101.7	118	74-07-43	.0	-115	SHORT
WVMX	CP	Sage Broadcasting Corpor	269A	.04	44-31-32	78.4	106.6	115
Stowe	VT	BPH-890824IB	101.7	809	72-48-54	259.3	-8.42	SHORT
WENU	CP	Bradmark Broadcasting Co	269A	4.60	43-22-40	160.7	113.3	115
Hudson Falls	NY	BPH-900123IC	101.7	55	73-39-56	341.0	-1.68	SHORT
ALLOC			269A		43-22-40	160.7	113.3	115
Hudson Falls	NY		101.7		73-39-56	341.0	-1.68	SHORT
WENU	LIC	Bradmark Broadcasting Co	269A	3	43-22-40	160.7	113.3	115
Hudson Falls	NY	BLH-870116KC	101.7	55	73-39-56	341.0	-1.68	SHORT
ALLOC			269A		44-30-11	80.5	115.7	115
Stowe	VT		101.7		72-41-35	261.5	.732	CLOSE
WVMX	LIC	Sage Broadcasting Corpor	269A	3	44-30-11	80.5	115.7	115
Stowe	VT	BLH-791029AR	101.7	26	72-41-35	261.5	.732	CLOSE
ALLOC			269A		45-35-00	324.2	171.4	180
Buckingham	QU		101.7		75-25-00	143.3	-8.58	SHORT
NEW			269A	3	46-02-33	22.4	205.1	180
Sorel	QU		101.7	68	73-07-02	203.1	25.11	CLEAR
ALLOC			269A		46-03-00	22.3	205.9	180
Sorel	QU		101.7		73-07-00	203.0	25.89	CLEAR
ALLOC			270A		45-02-26	326.1	93.98	113
Cornwall	ON		101.9		74-47-42	145.7	-19.0	SHORT
ALLOC			270A		45-07-00	46.0	125.1	113
Bedford	QU		101.9		72-59-00	226.8	12.14	CLOSE
CBOF7F			271A	2.50	44-38-25	286.2	123.1	62
Brockville	ON		102.1	101	75-37-08	105.2	61.12	CLEAR
WRGR	LIC	RGR Broadcasting of Tupp	272A	.15	44-09-35	234.0	34.30	31
Tupper Lake	NY	BLH-880223KI	102.3	441	74-28-34	53.8	3.301	CLOSE
ALLOC			272A		44-09-35	234.0	34.30	31
Tupper Lake	NY		102.3		74-28-34	53.8	3.301	CLOSE

>> End of channel 269A study <<